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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Telecommunications Division
Public Programs Branch**

**RESOLUTION T-16919
March 17, 2005**

R E S O L U T I O N

**Resolution T-16919. VCI Company dba Vilaire.
To designate VCI company as an Eligible Telecommunications Carrier
(ETC) pursuant to the Federal Communications Commission's Report
and Order (FCC 97-157) in the matter of Federal-State Joint Board on
Universal Service (CC Docket No. 96-45).**

Summary

This Resolution addresses the request of VCI Company dba Vilaire for designation as an Eligible Telecommunications Carrier (ETC) in the exchanges of Pacific Bell.

Although VCI Company has satisfied most of the requirements for ETC designation, the Commission finds that VCI Company needs to comply with certain requirements such as adherence to the terms and conditions set forth in Appendix B of Decision 04-09-047 dated September 23, 2004, immediate commencement of operations in California, inclusion of California as one of the states where telephone services is being offered in its website, revision of its tariff to include toll limitation, and expansion of advertisement of universal service offering in media of general circulation other than television and the company's website.

This resolution grants conditional approval of VCI Company's request and orders VCI Company to submit an attestation letter to the Director of Telecommunications Division, 15 days after the effective date of this resolution stating, under penalty of perjury, that it will comply with the following requirements:

- 1) Advertise the availability of telephone services in California in its website;
- 2) Revise its tariffs to include toll limitation as an offered service; and
- 3) Expand its advertisement to other media of general circulation such as newspapers of general distribution or radio. VCI should also advertise the designated services in annual bill inserts, white page directories, and other means that would satisfy the FCC advertising requirement.

This resolution likewise grants authority to the Director of the Telecommunications Division (TD) to issue a letter to VCI Company granting final approval to VCI Company's request for designation as an ETC after TD has verified that the aforementioned requirements have been met.

VCI Company is obligated to provide all the designated services for federal universal service support in the areas for which it is designated an ETC.

Background

Pursuant to the Federal Communications Commission's (FCC) Report and Order (R&O) on Universal Service (FCC 97-157), only eligible telecommunications carriers (ETCs) designated by state commissions will be eligible to receive federal high cost, low income, and most rural health care universal service support beginning January 1, 1998.¹

Resolution T-16086

In Resolution T-16086, the Commission adopted procedures and guidelines for designating ETCs in accordance with the FCC rules. The Commission directed all incumbent local exchange carriers, facilities-based competitive local carriers, and facilities-based broadband commercial mobile radio service (CMRS) carriers seeking ETC status to submit to TD the following: (1) self-certification letters indicating their compliance with the ETC eligibility requirements, (2) advice letters to implement any necessary tariff changes consistent with the ETC service requirements, and (3) requests for additional time to complete network upgrades needed to provide single-party, E-911, or toll limitation services.²

Carriers were instructed to include the following in their self-certification letters: (1) the service areas for which the carrier is requesting ETC designation, (2) an itemized list of the designated services to be provided, (3) a list of any services which the carrier proposes not to provide and for which the carrier is requesting an extension of time, (4) an indication of whether the carrier plans to apply for a waiver of the requirement that an ETC not disconnect Lifeline service for non-payment of toll charges, (5) a description of the carrier's advertising plan, indicating the advertising media to be used, and an explanation of how its plan meets the advertising requirement in section 214(e) of the Telecommunications Act.³

Resolution T-16086 also required carriers requesting additional time to undertake network upgrades necessary to provide single-party service, access to E911, and/or toll

¹ 47 C. F. R § 54.201 (a) (1).

² Resolution T-16086, Ordering Paragraphs (O. P.) 1 and 2.

³ Id., O. P. 3.

limitation services, to provide (1) a justification for the extension request, (2) an indication of the length of time for which the extension is being sought, (3) an implementation plan for the network upgrades necessary to provide any of the above services, and (4) an estimate of the cost of undertaking the network upgrades. Furthermore, carriers seeking a waiver of the prohibition to disconnect Lifeline service for non-payment of toll charges were directed to apply for such a waiver to the Commission. The waiver application must demonstrate that (a) the carrier would incur substantial costs in complying with this requirement, (b) the carrier offers toll limitation to qualifying low-income customers without charge, and (c) the telephone subscribership among low-income customers in its area is greater than or equal to the national subscribership rate for low-income consumers.⁴

Notice/Protests

Notice of Filing of the petition by VCI Company to be designated as an ETC for purposes of federal universal service support was published in the Commission Daily Calendar of October 15, 2004. No protest to this letter request has been received.

Discussion

VCI Company dba Vilaire, an FCC licensed, CPUC certificated competitive local exchange carrier, submitted a petition for ETC designation to TD on October 4, 2004. TD reviewed the request and found that VCI was not in compliance with some of the requirements set forth in Resolution T-16086, to wit:

- 1) submission of a petition instead of an application letter;
- 2) non-submission of service areas/GSAs proposed to be served as an ETC;
- 3) non-submission of a map indicating the service areas by Census block groups;
- 4) non-submission of an advertising plan, media to be used, explanation of how its plan meets the advertising requirement in section 214 (e) of the Telecommunications Act;
- 5) non-submission of justification for request for exemption to provide toll limitation to qualifying low-income customers, an indication of time for which the extension is being sought, an implementation plan for the network upgrades necessary to provide the service and an estimate of the cost of undertaking the network upgrade; and
- 6) non-submission of proof that petition for ETC designation was served on all parties to the universal service proceeding (OII/R 95-01-020/021), all LECs, all facilities based CLCs, and all facilities-based broadband CMRS carriers.

⁴ Id., O. P. 4 and 5.

Likewise, in their petition, VCI stated that the request is being made for purposes of providing local exchange service to California residents qualifying for the California Telephone Assistance Plan (CTAP). Clarification was requested as to what CTAP program VCI was referring to.

On December 21, 2004, TD sent a letter to VCI asking the carrier to comply with the provisions of Resolution T-16086, with clarification requested on the aforementioned items. VCI responded to TD's letter on December 24, 2004 by submitting an application letter and submitting some of the required documents.

A. Compliance with ETC Eligibility and Service Requirements

In Resolution T-16086, the Commission indicated that it will designate the Geographic Study Area (GSA), i.e., census block groups (CBGs), as the service area for purposes of the federal universal service obligations and support mechanisms for areas served by non-rural LECs, consistent with 47 C.F.R. § 54.207. VCI Company requested ETC status in exchanges served by Pacific Bell as defined in Pacific Bell's current and effective tariffs on file with the CPUC.

In compliance with the directive in Resolution T-16086, VCI Company resubmitted an application letter stating that it is requesting for designation as an ETC for purposes of providing local exchange service to California residents qualifying for the California Universal Lifeline Telephone Service Program.

In its self-certification application letter, VCI signified its intent to provide all of the designated services. These services include the following:

- 1) Voice-grade access to the public switched network;
- 2) Local Usage;
- 3) Dual tone multi-frequency (DMTF) signaling or its functional equivalent;
- 4) Single-party service or its functional equivalent;
- 5) Access to emergency services;
- 6) Access to operator services;
- 7) Access to interexchange service;
- 8) Access to directory assistance; and
- 9) Toll limitation.

VCI will provide the above services primarily through the use of Unbundled Network Elements (UNE's) leased from Pacific Bell Communications.

VCI further states that customers who are eligible for the California Universal Lifeline Telephone Service Program will receive discounts in accordance with state and federal guidelines.

Although VCI, in its petition, requested for exemption to provide toll limitation services to qualifying low-income customers since its underlying carrier and UNE-P provider, Qwest Communications, does not have the technological capability for providing toll-limitation service, it is not requesting the same exemption in its application letter. A check of VCI's tariffs filed with the Commission, disclosed that toll limitation is not offered as one of its services.

Although a Certificate of Public Convenience and Necessity (CPCN) was granted to VCI on September 23, 2004, VCI's website does not include California as one of the areas where telephone service is being offered. Washington, Montana, Oregon, and Wyoming are the states listed in VCI's website. Except for its tariff filing, no other reports (e. g. surcharge remittance reports) were filed by VCI.

VCI also states that it will advertise the availability of its services throughout its proposed service area through television advertisement daily. Lifeline and link-up information will also be available in their website at <http://www.vcicompany.com>.

Based on the application letter submitted by VCI to TD, VCI Company has substantially complied with the guidelines set forth in Resolution T-16086 and the FCC's service requirements for ETCs. However, TD finds that VCI should do the following as a condition for its designation as an ETC:

1. Advertise the availability of telephone services in California in its website;
2. Revise its tariffs to include toll limitation as an offered service; and
3. Expand its advertisement to other media of general circulation such as newspapers of general distribution or radio. VCI should also advertise the designated services in annual bill inserts, white page directories, and other means that would satisfy the FCC advertising requirement.

VCI should, within 15 days from the effective date of this resolution, send an attestation letter to the TD Director, certifying, under penalty of perjury, that it will comply with the abovementioned requirements.

The TD Director will, after TD has verified that the above requirements have been met, will send a letter to VCI Company, granting final approval of their request for ETC designation.

B. Universal Service Administrative Company Certification Requirements

According to the FCC rules, a state commission shall file or require an ETC to file information with the federal universal service administrator demonstrating that the carrier's Lifeline service meets the FCC requirements. Lifeline assistance shall be made

available once the administrator certifies that the carrier's Lifeline plan meets the criteria.⁵

After final approval is issued by the TD Director, VCI Company, as an ETC, should file information with the federal universal service administrator, the Universal Service Administrative Company (USAC), pursuant to 47 C. F. R. § 54.401 (d), demonstrating that its Lifeline service meets the FCC requirements, and stating the number of qualifying low-income customers and the amount of state assistance. VCI shall provide the USAC an estimated amount of state assistance (if any) based on current ULTS rates, net of the expected amount of federal support. A Copy of VCI's' filing with the USAC shall be provided to the TD Director.

C. Reimbursements from the ULTS Fund

As a designated ETC, VCI is eligible to obtain federal Lifeline and Link Up support. Resolutions T-16086, 16128 and 16591 require that ULTS payments from California be reduced by amounts received under the federal ETC program.

Comments

In compliance with PU Code § 311 (g), copies of the notice letter were e-mailed on February 15, 2005, to all Local Exchange Carriers, all facilities-based Competitive Local Carriers, and all facilities-based broadband Commercial Mobile Radio Service carriers, and parties to the universal service proceeding (OII/R 95-01-020/021), advising parties of the availability of the draft resolution on the Commission website www.cpuc.ca.gov/static/industry/telco/resolutions/index.htm, for public comments. In addition, TD informed these parties of the availability of the conformed resolution, when adopted by the Commission, at the same website.

Timely filed comments by parties will be addressed in this resolution.

Findings

1. Resolution T-16086 established a procedure for California telecommunications carriers to request designation as eligible telecommunications carriers.
2. VCI Company dba Vilaire is a Federal Communications Commission (FCC) licensed, California Public Utilities Commission (CPUC) certificated competitive local exchange carrier.
3. VCI Company submitted a petition requesting designation as an Eligible Telecommunications Carrier (ETC) on October 4, 2004.

⁵ 47 C. F. R. § 54.401 (d).

4. The notice of filing of the petition was published in the Commission Daily Calendar of October 15, 2004.
5. No protests were received on VCI's petition for ETC designation.
6. The Telecommunications Division (TD) reviewed VCI's filing and sent the carrier a letter, dated December 21, 2004, informing the carrier that their submission was inconsistent with the guidelines set in Resolution T-16086. Likewise, TD required clarification and submission of additional documents to support VCI's request.
7. On December 24, 2004, VCI responded to TD's letter by filing an application letter and providing answers to the issues raised in TD's letter of December 24, 2004.
8. VCI requested ETC designation in exchanges served by Pacific Bell as defined in Pacific Bell's current and effective tariffs on file with the CPUC.
9. In its self-certification application letter, VCI states that it provides the following services: Voice-grade access to the public switched network; Local Usage; Dual tone multi-frequency (DMTF) signaling or its functional equivalent; Single-party service or its functional equivalent; Access to emergency services; Access to operator services; Access to interexchange service; Access to directory assistance; and Toll limitation.
10. VCI states that it provides the above services primarily through the use of Unbundled Network Elements (UNE's) leased from Pacific Bell Communications.
11. A check of VCI's website disclosed that services are being offered in the following states: Washington, Montana, Oregon, and Wyoming. No services for California are being offered, although VCI was granted a Certificate of Public Convenience and necessity on September 23, 2004 and tariffs are on file with the Commission.
12. In its petition, VCI requested for exemption to provide toll limitation services to qualifying low-income customers since its underlying carrier and UNE-P provider, Qwest Communications, does not have the technological capability for providing toll-limitation service. VCI is not requesting the same exemption in its application letter. A check of VCI's tariffs filed with the Commission, disclosed that toll limitation is not offered as one of its services.
13. VCI indicated that it will advertise the availability of its services throughout its proposed service area through television advertisement daily. Lifeline and link-up information will also be available in their website at <http://www.vcicompany.com>.

14. Based on the application letter submitted by VCI to TD, VCI Company has substantially complied with the guidelines set in Resolution T-16086 and FCC's service requirements for ETCs. However, TD finds that VCI should, within 15 days from the effective date of this resolution, send an attestation letter to the Director of TD certifying, under penalty of perjury, that it will comply with the following requirements:
 - a) Advertise the availability of telephone services in California in its website.
 - b) Revise its tariff to include toll limitation as an offered service; and
 - c) Expand its advertisement of universal service offering to other media of general circulation such as newspapers of general distribution or radio. VCI should also advertise the designated services in annual bill inserts, white page directories, and other means that would satisfy the FCC advertising requirement.
15. VCI should comply with all of the requirements applicable to Competitive Local Exchange Carriers as indicated in Appendix B of Decision 04-09-047 dated September 23, 2004, granting VCI Company a Certificate of Public Convenience and Necessity.
16. TD should verify that the above requirements have been met.
17. The Director of TD should be given authority to send a final approval letter to VCI Company designating VCI Company as an ETC after the aforementioned requirements have been met.
18. After final approval is issued by the Director of TD, VCI Company, as an ETC, should file information with the federal universal service administrator, the Universal Service Administrative Company (USAC). A Copy of VCI's' filing with the USAC should be provided to the TD Director.
19. Copies of the notice letter were e-mailed on February 15, 2005 to all Local Exchange Carriers, all facilities-based Competitive Local Carriers, and all facilities-based broadband Commercial Mobile Radio Service carriers, and parties to the universal service proceeding (OII/R 95-01-020/021), advising parties of the availability of the draft resolution on the Commission website www.cpuc.ca.gov/static/industry/telco/resolutions/index.htm, for public comments. In addition, TD informed these parties of the availability of the conformed resolution, when adopted by the Commission, at the same website.

THEREFORE, IT IS ORDERED that:

1. VCI Company dba Vilaire is granted conditional approval as an Eligible Telecommunications Carrier (ETC) in exchanges served by Pacific Bell as defined in Pacific Bell's current and effective tariff on file with the California Public Utilities Commission.
2. VCI shall immediately start offering telephone services in California and include California as one of the states where it is offering telephone services in its website.
3. VCI shall comply with all of the requirements applicable to Competitive Local Exchange Carriers as indicated in Appendix B of Decision 04-09-047 dated September 23, 2004, granting VCI Company a Certificate of Public Convenience and Necessity.
3. As a condition for being designated as an ETC, VCI Company shall, within 15 days from the effective date of this resolution, submit an attestation letter to the TD Director certifying, under penalty of perjury, that it will:
 - a. Advertise the availability of telephone services in California in its website;
 - b. Revise its tariff to include toll limitation as an offered service; and
 - c. Expand its advertisement of universal service offering to other media of general circulation such as newspapers of general distribution or radio. VCI shall also advertise the designated services in annual bill inserts, white page directories, and other means that would satisfy the FCC advertising requirement.
4. TD shall verify that the above requirements have been met.
5. The TD Director is granted the authority to send a final approval letter to VCI Company designating VCI Company as an ETC after the aforementioned requirements have been met.
4. As a designated ETC, VCI Company shall file information with the federal universal service administrator, the Universal Service Administrative Company (USAC). A Copy of VCI's' filing with the USAC shall be provided to the TD Director.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on March 17, 2005. The following Commissioners approved it:

STEVE LARSON
Executive Director